

REMARKS

Claims 1-5 are pending in the present application. Applicant respectfully submits that independent claims 1 and 2 and dependent claims 3-5 stand in condition for allowance.

I. Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-4

Claims 1-4 were rejected under 35 U.S.C. § 103(a) as being anticipated by Tanimoto et al (U.S. Patent No. 6,698,217 Tanimoto '217) in view of Kitamoto (U.S. Patent No. 4,870,831). This rejection is respectfully traversed.

In the Office Action of December 31, 2008, the Examiner asserts that Tanimoto '217 does not explicitly teach that the oil return passageway is connected directly to the liquid injection passageway of claim 1 and asserts that Kitamoto teaches this element. Applicant respectfully directs the Examiner's attention to the arguments presented in Applicant's Response of July 19, 2007, in which Applicant presents arguments over Kitamoto. Additionally, in Examiner Nalven's response to Applicant's arguments, Examiner Nalven asserts that the "Applicant's arguments, see page 7 of Remarks, filed July 19, 2007, with respect to rejection 35 U.S.C. § 102(b) have been fully considered and are persuasive. The rejection of Kitamoto teaching a liquid injection passageway connected to the oil return has been withdrawn" (Office Action mailed October 9, 2007).

In addition, Applicant respectfully directs the Examiner's attention to the arguments presented in Applicant's Response of January 9, 2008, in which Applicant presents arguments over Tanimoto. Additionally, Examiner Nalven's Office Action of April 4, 2008 asserts that "Tanimoto et al. [does] not explicitly teach the gas injection passageway is connected directly to the liquid injection passageway" (Office Action mailed April 4, 2008, page 4).

Tanimoto '217 and Kitamoto fail to teach or disclose an "oil return passageway is connected directly to said liquid injection passageway in which gas refrigerant in said oil return passageway is mixed with said liquid refrigerant prior to injecting into the suction side of said at least one compressor" (claim 1). Also, Tanimoto '217 and Kitamoto fail to teach or disclose a

“gas injection passageway is connected directly to said liquid injection passageway in which gas refrigerant in said gas injection passageway is mixed with said liquid refrigerant prior to injecting into the suction side of said at least one compressor” (claim 2).

Accordingly, for at least these reasons, claims 1 and 2 are clearly distinguishable over Tanimoto '217 in view of Kitamoto. Applicant submits that claims 3 and 4 are allowable at least by virtue of their dependency on claims 1 and 2. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Claim 5

Claim 5 was rejected under 35 U.S.C. § 103(a) as being anticipated by Tanimoto et al. (Tanimoto '217) in view of Kitamoto and further in view of Tanimoto et al (U.S. Patent Publication No. 2004/0112082 Tanimoto '082). This rejection is respectfully traversed.

Tanimoto '082 does not remedy the noted deficiencies of Tanimoto '217 in view of Kitamoto. Tanimoto '082 is only relied upon to teach dependent claim features. This reliance on Tanimoto '082 fails to make up for the deficiencies of Tanimoto '217 in view of Kitamoto discussed above with respect to independent claims 1 and 2. Therefore, the asserted combination of Tanimoto '217 in view of Kitamoto and in further view of Tanimoto '082 (assuming these references may be combined, which Applicant does not concede) fails to establish *prima facie* obviousness of any pending claim.

Applicant submits that claim 5 is allowable at least by virtue of its dependency on independent claims 1 and 2. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

II. CONCLUSION

All matters having been addressed in view of the foregoing, Applicant respectfully requests the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant's undersigned representative remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains an issue in which the Examiner feels would be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account No. 02-2448. The Commissioner for Patents is also authorized to credit any overpayments to the above-referenced deposit account.

Dated: March 27, 2009

Respectfully submitted,

By

D. Richard Anderson
Registration No.: 40,439
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant